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January 23, 1997

BY OVERNIGHT MAIL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: GN Docket No. 96-245

Dear Mr. Caton:

Enclosed for filing please find an original plus four (4) copies of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

Michael J. Shortley, III

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of

The Merger of MCI Communications
Corporation and British
Telecommunications plc

GN Docket No. 96-245

**COMMENTS OF
FRONTIER CORPORATION**

Pursuant to the Commission's Public Notice,¹ Frontier Corporation ("Frontier") submits these comments on the application of MCI Communications Corporation ("MCI") and British Telecommunications plc ("BT") for consent to a proposed transfer of control.² The fact that MCI and BT could enter into such an agreement and reasonably anticipate approval is testimony as to how far regulatory authorities in both the United States and the United Kingdom have gone to open their respective markets to competition.³ Frontier does not oppose

¹ *MCI Communications Corporation and British Telecommunications plc Seek FCC Consent for Proposed Transfer of Control*, GN Dkt. 96-245, Public Notice, DA 96-2079 (Dec. 10, 1996).

² *The Merger of MCI Communications Corporation and British Telecommunications plc*, GN Dkt. 96-245, Applications and Notification (Dec. 2, 1996) ("Application").

³ In the United States, for example, Congress, less than one year ago, passed the Telecommunications Act of 1996 and this Commission has taken substantial steps to implement the pro-competitive framework of the Act. See, e.g., *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Dkt. 96-98, First Report and Order, FCC 96-325 (Aug. 8, 1996), *appeal pending sub nom., Iowa Utilities Board v. FCC*, No. 96-3321 (8th Cir.). This Commission's long-standing policies encouraging competition in all facets of telecommunications are a matter of record.

In the United Kingdom, the regulatory authorities have recently opened the United Kingdom to full, facilities-based international competition by issuing numerous

the Commission's approval of the proposed merger. Nonetheless, the proposed merger raises significant competitive concerns such that the Commission should impose conditions on its approval of the merger.

As a factual matter, the scope and size of both BT's and MCI's operations warrant significant regulatory oversight. Although domestic operations in the United Kingdom have been open to competition for years (and the international duopoly has recently ended), there is little question that BT retains substantial market power with the United Kingdom. Frontier understands that BT retains an approximate 90% market share for local service, 80% for national (long distance) service and 70% for U.K.-originated international service.

The sources of BT's continued market power are varied. Frontier notes that the United Kingdom authorities had, for years, opted for a policy favoring facilities-based, as opposed to resale, competition or the utilization of unbundled elements.⁴ Whatever the sources, BT's continued market power has resulted in the continuation of a number of market anomalies. BT's rates for interconnection remain above costs.⁵ More importantly, BT's service intervals are substantial.

international facilities-based/public telecommunications operator licenses, including one to Frontier's U.K.-based subsidiary.

⁴ This is not to say that the policy decisions of the United Kingdom were or are wrong in the context of that country's circumstances. They are, however, different from long-standing United States policies that early encouraged long-distance resale as well as facilities-based entry (see, e.g., *Policy and Rules Concerning Rates for Common Carrier Services and Facilities Authorizations Therefor*, CC Dkt. 79-252, Fifth Report and Order, 98 FCC 2d 1191 (1984)) and, more recently, encouraged local exchange competition through unbundling. See, e.g., *Expanded Interconnection with Local Telephone Company Facilities*, CC Dkt. 91-141, First Report and Order, 7 FCC Rcd. 7369 (1992), *vacated in part and remanded*, *Bell Atlantic Tel. Cos. v. FCC*, 24 F.3d 1441 (D.C. Cir. 1994).

⁵ See Application at 25 n.43, 26-27.

For example, BT does not currently quote a service interval for interconnecting a switch to its domestic network of less than six months. Particularly, where the United Kingdom has just issued new international facilities-based licenses, such a lengthy service interval will obviously work to the detriment (at least in the near term) of BT's U.K.-based competitors. For its part, MCI is the second largest interexchange carrier in the United States and possess significant resources that the merger would only increase.

Nor do BT and MCI currently operate in strategic isolation. Both are active, in the form of joint ventures or otherwise, in numerous countries, particularly in Europe. In these circumstances, the necessity for heightened regulatory scrutiny of the proposed combined company -- to prevent the potential for discrimination and monopoly leveraging -- are apparent.

Again, Frontier does not object to the proposed merger, largely because of the openness of the two principal markets in which BT and MCI operate. Rather, it suggests that the Commission impose two conditions on the merger.

First, Frontier requests that the Commission require the combined company to report on pricing, installation and service quality issues in the United Kingdom. Such reporting is essential for the Commission to satisfy itself that BT, in fact, is not only not discriminating against its competitors in the United Kingdom -- particularly in this context against its American-based competitors, as its newly-found incentives would motivate it to do -- but is also not depriving

those companies -- particularly, new licensees -- of effective opportunities to compete.

The Commission conditioned the Deutsche Telekom/France Telecom investment in Sprint on the imposition of certain reporting requirements⁶ and it should do the same here.⁷ In particular, the Commission should require BT to submit periodic reports demonstrating non-discrimination in service quality, installation intervals, interconnection and pricing.⁸

Second, the Commission should regulate MCI (or the combined company) as a dominant international carrier and subject to it accounting rate treatment and proportionate return requirements on the U.S.-U.K. route, at a minimum.⁹ This is the area in which the proposed merger presents greatest potential for abuse. BT is unquestionably dominant in the United Kingdom. It is, thus, consistent with the Commission's practice to subject the United States

⁶ *Sprint Corporation*, File I-S-P-95-002, Declaratory Ruling and Order, 11 FCC Rcd. 1850, 1869-72 (1996).

⁷ Obviously, the market conditions surrounding the two transactions differ. Germany and France are not yet open to competition. In addition, France Telecom is still government-owned and the majority of voting equity in Deutsche Telekom is still held by the German government. Nonetheless, the market power that BT retains in the United Kingdom warrants oversight.

⁸ Frontier acknowledges that BT is already obligated to report to OFTEL on such matters. Frontier would have no objection to the Commission modeling the reporting requirements that Frontier proposes on these existing requirements.

⁹ The Commission should also consider imposing the same requirements on any other route on which either BT or MCI maintains a substantial presence in the destination country.

operations of the combined company to dominant carrier regulation, including lengthened tariff-filing and facilities-authorization processes.¹⁰

Similarly, explicit accounting rate and proportionate return requirements are necessary to prevent the potential for abuse. Absent such explicit conditions, and in light of the Commission's pending rulemaking on settlements,¹¹ the potential for BT to divert exceptional amounts of U.S.-bound traffic to MCI or to deliver such traffic to MCI at discriminatory rates is unacceptably high. The Commission should impose conditions to prevent these circumstances from occurring.

For the foregoing reasons, the Commission should act upon the Application in the manner suggested herein.

Respectfully submitted,


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¹⁰ See, e.g., *Telecom New Zealand Limited*, File No. I-T-C-96-097, Order, Authorization and Certificate, DA 96-2182 (Int. Bur. Dec. 17, 1996).

¹¹ See *International Settlement Rates*, IB Dkt. 96-261, Notice of Proposed Rulemaking, FCC 96-484 (Dec. 19, 1996).

Certificate of Service

I hereby certify that, on this 23rd day of January, 1997, copies of the foregoing Comments of Frontier Corporation were served by first-class mail, postage prepaid, upon:

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